

REMARKS/ARGUMENTS

The Office is requiring restriction under 35 U.S.C. § 121 as follows:

- Group I: Claims 1-32 and 35 drawn to a composition;
- Group II: Claim 33, drawn to a composition additionally comprising polyethylene; and
- Group III: Claim 34, drawn to a method.

In addition, the Examiner has also required the selection of a component (i) and (ii).

Applicant has Applicants elect with traverse, Group I, Claims 1-32 and 35, drawn to a composition. Further Applicants elect with traverse, Nylon-611/Dimethicone Copolymer (DC 8179) and isododecane for initial examination purposes only.

First, Applicants request that once the elected claims are allowable, rejoinder of the corresponding non-elected process claims (MPEP §821.04¹).

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the identified groups.

Further, Applicants respectfully traverse the Restriction Requirement on the grounds that the Office has not shown that a burden exist in searching all of the claims. Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the

¹ "where the application as originally filed discloses the product and the process for making and/or using the product, and only claims directed to the product are presented for examination, when a product claim is found allowable, applicant may present claims directed to the process of making and/or using the patentable product."

burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

Applicants respectfully traverse the Election of Species Requirement on the grounds that the Office has not provided any reasons, whatsoever, to support the conclusion of patentable distinctness. Rather, the Office has merely stated the conclusion.

Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper there must be a patentable difference between the species as claimed. MPEP §808.01(a). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper, and Applicants' election of species is for examination purposes only.

Finally, with respect to the elected species, Applicants request that the Office expand its search to the non-elected species when the elected species are found to be allowable.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Election of Species Requirement. Withdrawal of the Election of Species Requirement is respectfully requested.

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An action on the merits is requested.

Respectfully submitted,

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